

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

ERIC ALLEN PERRY,

Petitioner(s),

vs.

UNITED STATES OF AMERICA,

Respondent(s).

CASE NO.: 4:04-CV-40237-FL

CRIM.NO.: 4:00-CR 50071-2FL

HON. PAUL V. GADOLA

MAG. JUDGE WALLACE CAPEL, JR.

ORDER REGARDING PETITIONER'S
"COMBINED" REQUEST TO VACATE ORDER OF REFERENCE
AND
MOTION FOR LEAVE TO AMEND THE PENDING 2255 MOTION

This matter is before the Court on the Petitioner's' "Combined" Request to Vacate Order of Reference And Motion For Leave To Amend Pending 2255 And Petitioner's Amended Argument To His Pending 2255 Petition, filed on September 14, 2006, [D/E #64].

Having considered the motion, the undersigned finds that the "combined" motion is inappropriate. The request to vacate the Order of Reference is not a matter which the undersigned has the authority to decide. Nor has the Petitioner articulated his reasons that the Order of Reference should be vacated and this matter returned to the district court judge for consideration of the instant matter.

Accordingly, the "Combined" Request To Vacate The Order Of Reference And Motion For Leave To Amend the Pending 2255, is hereby **DENIED WITHOUT PREJUDICE**. The Petitioner shall file a separate motion to vacate the reference with an appropriate argument as to why the reference should be withdrawn. The Petitioner shall also re-file his motion to amend with supporting brief as required under Local Rule 7.1, Eastern District of Michigan.

IT IS SO ORDERED.

The parties are hereby informed that any objection to this order must be filed with the district court within 10 days after service, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: September 28, 2006

s/ Wallace Capel, Jr.

WALLACE CAPEL, JR.

United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on **September 28, 2006**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification of such filing to the following: Mark C. Jones, AUSA, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s) James Q. Butler, Esq., 818 18th. St., Ste. 1010, Washington, D.C. 20006

s/James P. Peltier

James P. Peltier

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